

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Hayashizaki et al.	Confirmation No.:	9684
Appl. No.:	10/554,678	Group Art Unit:	1642
Filed:	05/14/2008	Examiner:	Sean E. Aeder
For:	METHOD OF DETECTING METASTISIZING CANCER CELLS ORIGINATING IN STOMACH CANCER		

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Office Action dated September 24, 2010, in which the Examiner has required restriction between Group I, including Claim 2, which is drawn to a method of detecting metastatic cancer cells comprising detecting aldehyde dehydrogenase mRNA or dopa decarboxylase mRNA; Group II including claim 3, which is drawn to a method of detecting metastatic cancer cells comprising detecting aldehyde dehydrogenase with an antibody or dopa decarboxylase with an antibody; Group III including Claim 4, which is drawn to a kit comprising a primer or probe to detect the presence of aldehyde dehydrogenase mRNA or dopa decarboxylase mRNA; and Group IV including Claim 5; which is drawn to a kit comprising an antibody to detect the presence of aldehyde dehydrogenase or dopa decarboxylase.

Applicant hereby provisionally elects with traverse to prosecute the claims of Group I and species as to aldehyde dehydrogenase (Claim 2 drawn to a method of detecting metastatic cancer cells comprising detecting aldehyde dehydrogenase mRNA).

Applicant expressly reserves the right to file divisional applications or take such other appropriate measures deemed necessary to protect the inventions in the remaining claims.

Applicant traverses the restriction requirement and respectfully submits that the claims can be examined together with little, if any, additional search burden on the Examiner. Indeed, the Examiner has failed to provide a reason or show why searching the claims together would present any burden. As such, restriction is inappropriate.

Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned so that further examination of this application can be expedited.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those, which may otherwise be provided for in documents accompanying this paper.

Appl No.: 10/554,678
Amdt. dated 10/08/2010
Reply to Restriction Requirement of 09/24/2010

However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Timothy J. Balts

Registration No. 51,429

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON October 8, 2010.